

## **DETAILED ACTION**

Acknowledgment is made of the amendment filed on 11/09/09. Claims 8, 9, 33, 34, 48-50, 52, 53, 57, 59, and 60 are currently pending.

### ***Claim Objections***

1. Claims 57 and 59 are objected to because of the following informalities:

in claim 57, line 14, substitute “the” with --a--;

in claim 59, line 14, substitute “the” with --a--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 8, 9, 33, 34, 48-50, 52, 53, 57, 59, and 60 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding independent claims 57 and 59, the claim language does not set forth a clear understanding of where the retrieved description of coded data portions comes from.

Furthermore, it is not clear how the description of coded data portion is retrieved. Is some kind of lookup table or database used to associate the product item identifier with its corresponding description of coded data portions?

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The claim language does not set forth a clear understanding of what the “provider” is a provider of. What does the provider provide and what does the provider provide to?

Also, what entity is receiving from the user device a message and a destination address?

Appropriate correction or clarification is required.

***Claim Rejections - 35 USC § 102***

4. The indicated allowability over prior art of claims 8, 9, 33, 34, 48-50, 52, 53, 57, 59, and 60 is withdrawn in view of the newly discovered reference(s) to Philyaw (US 6,708,208).

Rejections based on the newly cited reference(s) follow.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 8, 9, 33, 34, 48-50, 52, 53, 57, 59, and 60 are rejected under 35 U.S.C. 102(b) as being anticipated by Philyaw (SU 6,708,208).

Philyaw teaches

regarding claims 57 and 59, a method of facilitating a communication using a product item (product 2602), the product item including a surface having disposed thereon or therein coded data portions, each coded data portion encoding a product item identifier and position information identifying the position of the coded data portion on the surface of the product item, the method including the steps of (col. 24, lines 9-14):

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receiving sensing data from a user device, the sensing data resulting from sensing one of the coded data portions and includes the product item identifier and position information of the sensed coded data portion;

retrieving, using the product item identifier, a description of coded data portions on the surface (step 606);

mapping, using the description, the position information to a communication request (step 608);

determining a provider address associated with the provider using the product item identifier (step 610);

receiving from the user device a message and a destination address (see figures 6 and 22);

the method of claim 57, wherein the method further includes the steps of:

generating, using the product item identifier, product item information; and  
providing the product item information as part of the message;

the method of claim 57, wherein the communication request is for sending a free message, the method further including the step of embedding advertising material within the message prior to forwarding the message;

the method of claim 59, wherein the method further includes the steps of:

generating, using the product item identifier, product item information; and  
providing the product item information as part of the message;

the method of claim 59, wherein the communication request is for sending a free message, the method further including the step of embedding advertising material within the message prior to forwarding the message;

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the method of any one of claims 57 and 59, wherein the product item identifier uniquely identifies the product item;

the method of any one of claims 57 and 59, wherein the coded data is redundantly encoded;

the method of claim 49, wherein the coded data is redundantly encoded using Reed-Solomon encoding;

the method of any one of claims 57 and 59, wherein the coded data portions are substantially invisible to the unaided eye;

the method of any one of claims 57 and 59, wherein the coded data portions are printed using infrared ink.

### ***Response to Arguments***

7. The newly amended independent claims 57 and 59 are replete with language that renders the claims vague and indefinite, therefore the aforementioned 35 USC 112, 2nd paragraph rejections have been applied above along with an art rejection featuring the reference that mostly describes the invention of the instant application as claimed.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMARA A. FRANKLIN whose telephone number is (571)272-2389. The examiner can normally be reached on Monday through Friday 8:00am to 4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jamara A. Franklin/  
Primary Examiner, Art Unit 2876

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JAF